



General Assembly

January Session, 2009

Raised Bill No. 763

LCO No. 2556

02556_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING THE CONNECTICUT UNFAIR INSURANCE PRACTICES ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (6) of section 38a-816 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (6) Unfair claim settlement practices. Committing or performing
5 [with such frequency as to indicate a general business practice] any of
6 the following: [(a)] (A) Misrepresenting pertinent facts or insurance
7 policy provisions relating to coverages at issue; [(b)] (B) failing to
8 acknowledge and act with reasonable promptness upon
9 communications with respect to claims arising under insurance
10 policies; [(c)] (C) failing to adopt and implement reasonable standards
11 for the prompt investigation of claims arising under insurance policies;
12 [(d)] (D) refusing to pay claims without conducting a reasonable
13 investigation based upon all available information; [(e)] (E) failing to
14 affirm or deny coverage of claims within a reasonable time after proof
15 of loss statements have been completed; [(f)] (F) not attempting in
16 good faith to effectuate prompt, fair and equitable settlements of

17 claims in which liability has become reasonably clear; [(g)] (G)
 18 compelling insureds to institute litigation to recover amounts due
 19 under an insurance policy by offering substantially less than the
 20 amounts ultimately recovered in actions brought by such insureds;
 21 [(h)] (H) attempting to settle a claim for less than the amount to which
 22 a reasonable man would have believed he was entitled by reference to
 23 written or printed advertising material accompanying or made part of
 24 an application; [(i)] (I) attempting to settle claims on the basis of an
 25 application which was altered without notice to, or knowledge or
 26 consent of the insured; [(j)] (J) making claims payments to insureds or
 27 beneficiaries not accompanied by statements setting forth the coverage
 28 under which the payments are being made; [(k)] (K) making known to
 29 insureds or claimants a policy of appealing from arbitration awards in
 30 favor of insureds or claimants for the purpose of compelling them to
 31 accept settlements or compromises less than the amount awarded in
 32 arbitration; [(l)] (L) delaying the investigation or payment of claims by
 33 requiring an insured, claimant, or the physician of either to submit a
 34 preliminary claim report and then requiring the subsequent
 35 submission of formal proof of loss forms, both of which submissions
 36 contain substantially the same information; [(m)] (M) failing to
 37 promptly settle claims, where liability has become reasonably clear,
 38 under one portion of the insurance policy coverage in order to
 39 influence settlements under other portions of the insurance policy
 40 coverage; [(n)] (N) failing to promptly provide a reasonable
 41 explanation of the basis in the insurance policy in relation to the facts
 42 or applicable law for denial of a claim or for the offer of a compromise
 43 settlement; [(o)] (O) using as a basis for cash settlement with a first
 44 party automobile insurance claimant an amount which is less than the
 45 amount which the insurer would pay if repairs were made unless such
 46 amount is agreed to by the insured or provided for by the insurance
 47 policy.

48 Sec. 2. Section 38a-817 of the general statutes is repealed and the
 49 following is substituted in lieu thereof (*Effective October 1, 2009*):

50 (a) Whenever the commissioner has reason to believe that any such
51 person has been engaged or is engaging in violation of sections 38a-815
52 to 38a-819, inclusive, as amended by this act, in any unfair method of
53 competition or any unfair or deceptive act or practice defined in
54 section 38a-816 as amended by this act, and that a proceeding by the
55 commissioner in respect thereto would be in the interest of the public,
56 the commissioner shall issue and serve upon such person a statement
57 of the charges in that respect and a notice of a hearing thereon to be
58 held at a time and place fixed in the notice, which shall not be less than
59 thirty days after the date of the service thereof. At the time and place
60 fixed for such hearing, such person shall have an opportunity to be
61 heard and to show cause why an order should not be made by the
62 commissioner requiring such person to cease and desist from the acts,
63 methods or practices so complained of. Upon good cause shown, the
64 commissioner shall permit any person to intervene, appear and be
65 heard at such hearing by counsel or in person. The commissioner,
66 upon such hearing, may administer oaths, examine and cross-examine
67 witnesses and receive oral and documentary evidence, and shall have
68 the power to subpoena witnesses, compel their attendance and require
69 the production of books, papers, records, correspondence or other
70 documents that the commissioner deems relevant to the inquiry. If any
71 person refuses to comply with any subpoena issued hereunder or to
72 testify with respect to any matter concerning which the person may be
73 lawfully interrogated, the superior court for the judicial district of New
74 Britain or the superior court for the judicial district where such person
75 resides may, on application of the commissioner, issue an order
76 requiring such person to comply with such subpoena and to testify.
77 Any failure to obey any such order of the court may be punished by
78 the court as a contempt thereof. Statements of charges, notices, orders
79 and other processes of the commissioner under sections 38a-815 to 38a-
80 819, inclusive, as amended by this act, may be served in the manner
81 provided by law for service of process in civil actions.

82 (b) If, after such hearing, the commissioner determines that the
83 person charged has engaged in an unfair method of competition or an

84 unfair or deceptive act or practice, the commissioner shall reduce the
85 findings to writing and shall issue and cause to be served upon the
86 person charged with the violation a copy of such findings and an order
87 requiring such person to cease and desist from engaging in such
88 method of competition, act or practice and if the act or practice is a
89 violation of section 38a-816, as amended by this act, the commissioner
90 may order any of the following: (1) Payment of a monetary penalty of
91 not more than five thousand dollars for each act or violation but not to
92 exceed an aggregate penalty of fifty thousand dollars unless the person
93 knew or reasonably should have known that the person was in
94 violation of sections 38a-815 and 38a-816, as amended by this act, this
95 subsection and subsection (e) of this section, in which case the penalty
96 shall be not more than twenty-five thousand dollars for each act or
97 violation but not to exceed an aggregate penalty of two hundred fifty
98 thousand dollars in any six-month period; (2) suspension or revocation
99 of the person's license if the person knew or reasonably should have
100 known the person was in violation of said sections and subsections; or
101 (3) restitution of any sums shown to have been obtained in violation of
102 any of the provisions of said sections or any regulation implementing
103 the provisions of said sections.

104 (c) Any person aggrieved by any such order of the commissioner
105 may appeal therefrom in accordance with the provisions of section 4-
106 183, except venue for such appeal shall be in the judicial district of
107 New Britain.

108 (d) No order of the commissioner under sections 38a-815 to 38a-819,
109 inclusive, as amended by this act, shall relieve or absolve any person
110 affected by such order from any liability under any other laws of this
111 state.

112 (e) Any person who violates a cease and desist order of the
113 commissioner made pursuant to this section and while such order is in
114 effect shall, after notice and hearing and upon order of the
115 commissioner, be subject to any of the following: (1) A monetary

116 penalty of not more than fifty thousand dollars for each act or
117 violation; or (2) suspension or revocation of such person's license.

118 (f) Notwithstanding subsections (a) to (c), inclusive, of this section,
119 any person who suffers any ascertainable loss of money or property,
120 real or personal, as a result of an alleged violation of subdivision (6) of
121 section 38a-816, as amended by this act, may bring an action in the
122 judicial district in which the plaintiff or defendant resides or has his
123 principal place of business or is doing business, to recover actual
124 damages. Proof of public interest or public injury shall not be required
125 in any action brought under this subsection. The court may, in its
126 discretion, award punitive damages and may provide such equitable
127 relief as it deems necessary or proper.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	38a-816(6)
Sec. 2	October 1, 2009	38a-817

Statement of Purpose:

To allow a private cause of action for unfair claim settlement practices without the necessity of showing a general business practice on the part of an insurer.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]